## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

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In Re: St. Jude Medical, Inc.
Silzone Heart Valves
Products Liability Litigation

File No. 01-MD-1396
(JRT/FLN)

Minneapolis, Minnesota

12:30 P.M.

March 30, 2005

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## BEFORE THE HONORABLE JOHN R. TUNHEIM (VIA TELEPHONE) UNITED STATES DISTRICT COURT JUDGE

(TELEPHONIC STATUS CONFERENCE)

## **APPEARANCES**

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Proceedings recorded by mechanical stenography; transcript produced by computer.

- 1 (In chambers via telephone.)
- 2 THE COURT: Hi, everyone. Just for the record,
- 3 this is: In re St. Jude Medical, Incorporated, Silzone
- 4 Heart Valves Products Liability Litigation. We have a
- 5 telephone status conference today.
- 6 Counsel, would you note your appearances?
- 7 MR. CAPRETZ: Judge Tunheim, this is Attorney
- 8 Capretz. I don't know if it's my connection.
- 9 THE COURT: We're hearing you.
- 10 MR. CAPRETZ: Okay.
- 11 THE COURT: I'm not really sure, you know. It
- may be the nature of the service that was called in. I'm
- 13 not sure.
- MR. MURPHY: I can hear you, Judge. This is Pat
- 15 Murphy.
- MS. VAN STEENBURGH: As can I, Judge.
- 17 THE COURT: Let's just go through and list the
- 18 appearances.
- 19 MR. ANGSTREICH: Go ahead, Jim.
- MR. CAPRETZ: Okay. Yeah. I cannot hear.
- 21 MR. ANGSTREICH: Appearance, Jim. Your

- 22 appearance.
- MR. CAPRETZ: Capretz for the class.
- MR. ANGSTREICH: Steve Angstreich for the class.
- MR. JACOBSON: Joe Jacobson for the class.

- 1 MR. MURPHY: Pat Murphy, plaintiffs' state
- 2 liaison counsel.
- 3 MR. KOHN: Steve Kohn for St. Jude Medical.
- 4 MS. VAN STEENBURGH: Tracy Van Steenburgh for
- 5 St. Jude Medical.
- 6 MS. PORTER: Liz Porter for St. Jude Medical.
- 7 MR. ANGSTREICH: That does it, Your Honor.
- 8 THE COURT: Let's go through the agenda here.
- 9 Who is going to take the lead?
- MR. ANGSTREICH: Well, it's really a very short
- one, Your Honor. There is nothing new with the Eighth
- 12 Circuit appeal, and this is Steve Angstreich speaking. We
- were just advised that the schedule comes out at the
- beginning of the month, so maybe we'll know something
- 15 Monday or -- Friday or Monday.
- THE COURT: What's been filed so far? Have there
- been briefs filed?
- MR. ANGSTREICH: Everything.
- 19 THE COURT: Everything?
- MR. ANGSTREICH: It's all complete. We're just
- 21 waiting for an argument date if there is going to be one.

- MR. CAPRETZ: We even sent a letter, Your Honor,
- 23 this is Capretz speaking, for asking for early
- 24 consideration in light of the fact that we had a medical
- 25 monitoring claim.

- 1 THE COURT: Okay.
- 2 MR. ANGSTREICH: The status of discovery, Your
- 3 Honor, is that yesterday the deposition of Dr. Schaff was
- 4 taken. Today I believe the deposition of Dr. Grunkemeier
- 5 is being taken.
- 6 MR. KOHN: Tomorrow.
- 7 MR. ANGSTREICH: Dr. Grunkemeier, tomorrow --
- 8 thanks, Steve -- is being taken. We're having problems
- 9 with the University of Pittsburgh and getting
- 10 Dr. Holobkov -- did I say it right?
- 11 MR. KOHN: Holobkov.
- MR. ANGSTREICH: -- done, and we're giving them
- one more opportunity. We may have to ask for Your Honor's
- 14 assistance. We're hoping that that's not the case.
- 15 THE COURT: Can you spell the name there?
- MR. ANGSTREICH: Steve, I'll defer to you.
- MR. KOHN: Steven Kohn for St. Jude,
- 18 H-O-L-O-B-K-O-V as in Victor, Richard Holobkov.
- 19 THE COURT: Do you know anything about that
- 20 situation, Mr. Kohn?
- MR. KOHN: Actually, I only know what I learned

- from opposing counsel, which is I believe Dr. Holobkov's
- parents both died recently, and he's no longer with the
- 24 University of Pittsburgh. He has gone on to some other
- 25 institution.

- 1 So other than the fact that he had two deaths in
- 2 the family and he is no longer at Pittsburgh, I don't know
- 3 the details, and I had not heard until this morning that
- 4 there was any problem with scheduling his deposition. I
- 5 would be happy to check with counsel at Pittsburgh and see
- 6 if I can move it along, though.
- 7 MR. ANGSTREICH: Thank you, Steve.
- 8 THE COURT: Excellent.
- 9 MR. ANGSTREICH: We have another deposition.
- 10 Joe, Mario is taking that when?
- MR. JACOBSON: It was reset. I don't recall the
- 12 date.
- MR. ANGSTREICH: May 5th? Do you recall?
- MR. KOHN: I'm not sure of the date, but I know
- it's come up in the next month or so, and I believe we have
- one other. Monica Schultz's deposition is to be taken.
- MR. KOHN: Correct. That's on April 26th or
- 18 27th.
- MR. ANGSTREICH: And that will be the end of the
- 20 discovery until we get into the -- into expert discovery.
- MR. CAPRETZ: And the Court has, I don't know if

- the Court has signed the two latest PTO's for the last
- 23 extension of the various discovery items.
- 24 MR. ANGSTREICH: Your Honor, I believe you
- signed, I believe you signed PTO's order 42 or order 42 and

- 1 43 dealing with those extensions.
- 2 THE COURT: I don't believe we have any pending
- 3 proposed pretrial orders to sign, so I think they're taken
- 4 care of.
- 5 MR. ANGSTREICH: Yes, I believe they are, Your
- 6 Honor.
- 7 THE COURT: Okay. What's the situation with this
- 8 Illingworth deposition, anything?
- 9 MR. ANGSTREICH: Well, I had asked Mr. Stanley if
- 10 he would withdraw his opposition and let me try to finish
- at least the document that I had before the witness and
- 12 approximately three to six additional documents rather than
- the full three additional hours, and he declined to do
- 14 that. So the question really is one of allowing the --
- 15 allowing the plaintiffs to complete the deposition.
- Your Honor, if we can just take two minutes on
- 17 this. It's not a very long thing. We sent you Mr. Solum's
- 18 ruling. I really think that his ruling was constrained by
- 19 Your Honor's having limited the deposition to four hours,
- and the four hours was a request of St. Jude based upon the
- 21 fact that this individual had been previously deposed.

22	And while she had been previously deposed, none
23	of the prior deposition was of assistance to enable us to
24	complete where we were, and so while I would like an
25	additional three hours of time with her, at the very least,

- 1 we would like to complete the subject which was a document
- 2 that was in front of her and approximately three to six
- 3 additional documents.
- 4 We did this by way of video, Your Honor, so I had
- 5 sent to Mr. Stanley four -- actually it was, I had sent
- 6 four volumes of documents that we might be looking at with
- 7 the witness. We had gotten through almost two of the
- 8 volumes. There were approximately three to six documents
- 9 at the very end that we had not gotten to, and what I would
- like to do, as I said, is finish the one document and then
- 11 the complete remaining three to six documents.
- THE COURT: How much additional time is that
- 13 going to take?
- MR. ANGSTREICH: Your Honor, if it takes -- well,
- 15 it really shouldn't take more than a half an hour to 45
- minutes as long as the questions are asked and the answers
- 17 are given. This witness has a tendency either not to
- answer directly or to repeat each question before she
- 19 answers it, which takes -- which makes the session go a
- 20 little longer, but I cannot envision this deposition going
- 21 more than 45 minutes.

- THE COURT: What did the prior deposition,
- 23 Mr. Angstreich, take?
- MR. ANGSTREICH: It was done in -- it was done in
- 25 the Texas --

- 1 MR. KOHN: No. No.
- 2 MR. ANGSTREICH: Ramsey County.
- 3 MR. KOHN: It was done by Robins Kaplan and was a
- 4 full day, eight-hour deposition. I don't want to interrupt
- 5 you if you aren't done, Steve.
- 6 MR. ANGSTREICH: I don't have anything more to
- 7 say.
- 8 MR. KOHN: Okay.
- 9 MR. ANGSTREICH: I said it in the papers I
- submitted. It is really one of those situations where we
- were in the middle of a document, and that shouldn't have
- 12 happened. Simply because Your Honor said four hours
- doesn't mean that they should be able to walk out in the
- 14 middle of questions.
- MR. KOHN: Your Honor, this is Steven Kohn, if I
- 16 could be heard on this subject.
- 17 THE COURT: Yeah, go ahead, Mr. Kohn.
- MR. KOHN: The four hours was a limitation
- imposed by the Court because there had already been a full
- 20 day deposition. I would respectfully disagree with counsel
- about the fact that the previous deposition was of no help.

- 22 In fact, some ground was re-plowed in the second deposition
- that in our view did not need to be re-plowed, and if that
- had not been done, the deposition would be over and done
- with.

1	The issue of whether the witness answered						
2	responsively was raised before Mr. Solum, and he did not						
3	find that the answers were evasive or improper. Part of						
4	the problem here is that the witness had a very limited						
5	role in the development of the Silzone valve and was asked						
6	about some subjects that she didn't know anything about or						
7	had very little involvement in, and in our view, that						
8	prolonged the deposition.						
9	In our view, there is absolutely no justification						
10	whatsoever for yet a third deposition of this witness who						
11	had a very limited role. She's already been through twelve						
12	hours of testimony, and enough is enough. We just don't						
13	see that it's warranted under the circumstances.						
14	THE COURT: Mr. Kohn, what was her role?						
15	MR. KOHN: She is a PhD or maybe a master's						
16	degree scientist. Her role was primarily involved with						
17	doing bench testing and animal testing involving efficacy.						
18	She didn't have any involvement whatsoever in the initial						
19	development of the valve or with the submission to the FDA.						
20	Most of her work began after the valve was						
21	already approved by the FDA, and most of the tests that she						

- 22 was involved in were not FDA mandated tests, so that's in a
- 23 nut shell what her role was.
- 24 MR. ANGSTREICH: Your Honor, if I might just
- 25 respond?

1	THE COURT: Go ahead.						
2	MR. ANGSTREICH: Part of the problem was this						
3	woman's name was on a series of documents dealing with						
4	presentations that were made concerning studies and reports						
5	and information which she never had any involvement in, and						
6	I can't tell you, and if Your Honor would look at the						
7	deposition transcript, the beginning of it, I can't tell						
8	you how many pieces of paper had her name on it, and she						
9	said she had nothing to do with it.						
10	So I went through, and they were 30 to 40 page						
11	documents that she didn't recall. A lot of them were slide						
12	presentations that her name was on the cover of, and I had						
13	to see what whether she recalled or didn't recall her						
14	involvement in it.						
15	In addition to which whether they were FDA						
16	mandated testing is not really relevant. The FDA requires						
17	that any testing, even after approval, that shows any						
18	negative information is to be made known to them, and she						
19	was actively involved in attempting to establish the						
20	efficacy of this valve and the Silzone coating, which is						

the crux of this case, because the reality is, none of her

- 22 testing proved anything with respect to efficacy prior to
- 23 the -- long before the recall.
- So her information is important. She is somebody
- 25 whose name appears on published papers, supposedly relating

- 1 to the efficacy and safety of this particular product, and
- 2 all I really want to do is finish a couple of pieces of
- 3 paper with her. And to be very frank about it, Your Honor,
- 4 we had seven hours, one full day and seven hours with some
- 5 of these witnesses who were deposed many more hours and
- 6 many more times in Ramsey County and in -- and in Texas
- 7 simply to say that she was deposed for eight hours isn't
- 8 the end of it.
- 9 I mean, I tried my best to get through in four
- 10 hours, and I couldn't complete what I needed to do, and
- 11 counsel did not have the courtesy to at least allow me, and
- 12 I explained to him what I wanted to do, and he got up and
- walked out.
- I can assure Your Honor had we finished the
- document and the three to six pieces of paper, we would
- 16 have ended it the same way I did with Dickie Fraasen-Brader
- 17 who was deposed. She was in Brussels. Dave Stanley was
- 18 over there. We had a time limit.
- We finished at the time limit because that's what
- 20 we agreed to do regardless of the fact that there were
- 21 still documents that we didn't get to look at with

- 22 Dr. Fraasen-Brader, but what's that we did.
- MR. KOHN: If I could just briefly respond, Your
- Honor.
- THE COURT: Go ahead.

- 1 MR. KOHN: My understanding, and I wasn't at the
- 2 deposition, counsel had four binders of documents he
- 3 intended to go through with this witness. He didn't even
- 4 get through half of the documents, and he announced at the
- 5 beginning of the deposition to my partner who was there
- 6 that he wasn't going to finish the deposition in four
- 7 hours. So to say that he simply miscalculated I think is
- 8 not right.
- 9 There was no way he was going to get this
- deposition done in four hours, and he should have been more
- judicious in the way the time was used so you didn't wind
- 12 up at the end of the fourth hour with a bunch of documents
- that hadn't been discussed.
- So I just don't think St. Jude should be
- 15 penalized and the witness subjected to yet another
- deposition because of the way this one was conducted.
- MR. ANGSTREICH: I cannot let Mr. Kohn's comment
- 18 go unresponded. Your partner's statement is a complete
- 19 untruth. I never said I wouldn't finish the witness in
- 20 four hours. What I said to him was, he said you're going
- 21 to be done in four hours, and I said I will do my best, but

- I am not going to agree that we can't go over four hours.
- I never said I couldn't finish in four hours.
- 24 That's the first thing. The second thing, just so Your
- 25 Honor knows, I tried before the videographer and court

- 1 reporter were ready with counsel present, I tried to just
- 2 give the witness the preliminary instructions about
- 3 responding verbally and asking if she understood the
- 4 question and if she didn't understand, she should tell me,
- 5 and counsel wouldn't let me do that. He wanted it all on
- 6 the record to waste additional time on that.
- 7 And he never once until approximately the three
- 8 hour and 45 minute mark did he ever tell his witness to
- 9 please answer the question when he knew she was not being
- 10 responsive over and over again. Now, I understand
- 11 that Mr. Solum made the ruling that he did or made the
- 12 findings that he did.
- He did acknowledge, contrary to what Mr. Kohn has
- said, he did acknowledge that there were times that she was
- 15 unresponsive and that he did not see it to be sufficient to
- 16 warrant additional time in light of Your Honor's four hour
- 17 limitation. I think we have said enough on this issue,
- 18 Your Honor.
- THE COURT: This is what I'm going to do. I'm
- 20 going to permit up to one additional hour of deposition
- 21 time for Ms. Illingworth, but no, nothing beyond the

- 22 additional one hour.
- MR. ANGSTREICH: Thank you, Your Honor.
- MR. KOHN: Okay.
- THE COURT: Next issue regards the Jones case?

- 1 Mr. Murphy, what did you do on this matter since
- 2 we last spoke?
- 3 MR. MURPHY: Mr. Murphy stepped into the rest
- 4 room, Your Honor.
- 5 THE COURT: We caught him. Okay. Well maybe
- 6 someone else knows what is going on in the Jones matter.
- 7 MR. CAPRETZ: Your Honor, this was requested by
- 8 defendant's attorney Stanley. Do you want to move on to
- 9 the Silzone status report and come back to it?
- THE COURT: We can do that. That's fine.
- MR. CAPRETZ: Basically it's the same thing. In
- 12 January of '05, there were 25 federal pending cases and 28
- in state. I think all of those are Ramsey County cases.
- 14 Is that correct, Steve, do you know?
- MR. KOHN: You know, I don't know precisely the
- 16 number, but you're in the ball park.
- MR. CAPRETZ: All right. At any rate, in the
- 18 federal system now we have 24, so we're down one from
- 19 January, and we have 29 pending in the state activity, so
- with that, perhaps, Mr. Kohn, I did say I was going to
- 21 phone him so I could speak to give us a report on the

- status of the mediations and negotiations.
- MR. KOHN: Well, there is a number of
- 24 negotiations that are ongoing. There are, I don't believe,
- 25 any mediations set at this moment. There are several cases

- 1 that may potentially get mediated. There are a number of
- 2 the individual MDL cases where we are about to complete
- 3 discovery because as far as we can tell from the records,
- 4 there are absolutely no complications with the product, and
- 5 they are essentially fear of cases, and counsel on the
- 6 other side did not agree to dismiss or move them into the
- 7 monitoring class, and we have to complete discovery and
- 8 have those cases remanded for some kind of dispositive
- 9 motion.
- There are a few new cases being transferred into
- 11 the MDL possibly, and I don't know what the status of those
- 12 are, but by and large we're working towards mediating what
- 13 remains or negotiating settlements, and to the extent we
- can't do that, we're going to finish discovery over the
- 15 next 90 to 120 days.
- MR. ANGSTREICH: Your Honor, this is Steve
- 17 Angstreich if I might comment.
- THE COURT: Go ahead.
- MR. ANGSTREICH: We had mediated or attempted to
- 20 mediate ten cases, and that was before the end of last
- 21 year, and we were advised that possibly after the first of

- the year there would be some movement by Kemper. One of
- 23 the cases or two of the cases are in the MDL, and the rest
- are in Ramsey County.
- I can tell you that Kemper through their counsel

- 1 has made no effort to initiate any discussions,
- 2 notwithstanding the best efforts of Mr. Stanley to do that.
- 3 In fact, counsel for Kemper was supposed to call me
- 4 directly, and that was at least two and a half, three weeks
- 5 ago. I don't know what effort is being made, and I
- 6 certainly have not seen any effort on the part of Kemper's
- 7 part to mediate or settle any of the cases involving
- 8 paravalvular leaks, involving explants, involving explants
- 9 with thromboembolic event as well.
- So I don't know what Steve is mediating at this
- point, but it doesn't involve any of the cases that I'm
- involved in or that Mr. Rudd is involved in.
- MR. JACOBSON: Judge, Joe Jacobson. I can add
- 14 that for Bonnie Sliger, there is no response to our
- proposals. We're not in mediation. We have made
- 16 proposals. We haven't got responses. They're not required
- to do that, but, you know, that's just what it is.
- MR. CAPRETZ: And I think -- this is Capretz
- 19 speaking -- Your Honor, I can also add to that that we have
- 20 several cases that were not resolved that we were told
- 21 would be negotiated/mediated in '05, and we have had no

22	response	from	St.	Jude	Medical	in	that	regard	as	well.

- I think it may be incumbent upon St. Jude Medical
- 24 to apprise the Court in a more definitive way what is the
- 25 schedule for mediations and negotiations. If they don't

- 1 want to, so be it, but let's know what the situation is,
- 2 and perhaps Steve Kohn is somewhat at a disadvantage with
- 3 Mr. Stanley not here.
- 4 I realize that, but perhaps at the next
- 5 conference we can have a recapitulation of how many there
- 6 are they have agreed to mediate and negotiate, as well as
- 7 how many they are not going to agree and therefore going to
- 8 have to be remanded, so we know what we're dealing with.
- 9 MR. KOHN: I'll be happy to do that. It is true
- 10 that Mr. Stanley has been involved in the ten cases that
- 11 Mr. Angstreich was just talking about, most of which are in
- 12 Ramsey County, and I'm not really up to speed on the latest
- 13 status of those.
- MS. PORTER: Steve, I'm sorry to interrupt. This
- is Liz Porter from St. Jude Medical, and I have been
- working with Dave on those, and I can tell you there has
- been some delay with Kemper's counsel being out of town on
- 18 vacation, so we are still working on these issues.
- 19 MR. ANGSTREICH: Okay.
- THE COURT: So Kemper is moving forward in the
- 21 mediation setting, then?

22	MR.	KOHN:	They	are in	the	cases	that	I'm

- 23 involved in, Your Honor, and that's why I assume that the
- same was true in Mr. Capretz's cases and the ones that
- 25 Mr. Angstreich is handling. So I am reasonably certain

- 1 that we will be scheduling some additional mediations over
- 2 the next 30 days.
- 3 THE COURT: Well, let's do this: At our next
- 4 status conference, I presume we will have one in April in
- 5 person. Let's take some time to run through each of the
- 6 current cases that are pending in the MDL and provide to
- 7 the Court kind of a status of where each one is at so that
- 8 we are clear on which ones are going to continue in
- 9 mediation and which ones are going to have to be litigated.
- 10 Okay.
- 11 Anything else on that point? Okay. Is
- 12 Mr. Murphy there?
- MR. JACOBSON: He hasn't returned, Your Honor.
- MR. CAPRETZ: We'll continue if you wish, Your
- 15 Honor.
- THE COURT: Let's continue on, Mr. Capretz.
- MR. CAPRETZ: The status of the Ramsey County and
- 18 Canadian litigation. In the Canadian litigation,
- 19 St. Jude's request for early appeal was denied. It was
- sent back to the, it's my understanding, it was sent back
- 21 to the Court, Justice Cullity, for disposition. And a

- trial has been set for October 2nd, 2006, with various
- 23 schedules of discovery connected with that trial date.
- So it's about a year and a half out from where we
- are today.

- 1 Steve, do you have anything further on that?
- 2 MR. KOHN: No. I think that's accurate.
- THE COURT: Will that be a class trial, then?
- 4 MR. KOHN: Correct, Your Honor.
- 5 THE COURT: Okay.
- 6 MR. MURPHY: I'm back. I'm sorry, Your Honor. I
- 7 had to step out.
- 8 THE COURT: That's fine.
- 9 MR. CAPRETZ: We can finish the Ramsey County.
- 10 The Court has the cases, and we have a trial scheduled for
- 11 the fall, and I think that's the very first one of the 20
- 12 plus cases scheduled before Judge Gearin at this point in
- 13 time.
- MR. ANGSTREICH: One other point with respect to
- 15 Ramsey County. Your Honor has under advisement the motions
- that Your Honor had heard with respect to the EU class,
- 17 comity and forum non conveniens.
- THE COURT: Okay. What has happened in the
- 19 Ramsey County case regarding experts?
- MR. KOHN: Nothing, Your Honor. There has been
- 21 no experts disclosed by either side on any of the cases.

22	THE COURT: Okay. So are you anticipating any
23	action on experts in Ramsey County?
24	MR. KOHN: I'm pretty sure that a disclosure date
25	in Mr. Capretz's case is coming up in August/September time

- 1 frame.
- 2 MR. CAPRETZ: I still have trouble hearing,
- 3 Judge. You may have to repeat.
- 4 MR. ANGSTREICH: I'm waiting for your disclosing
- 5 experts.
- 6 MR. CAPRETZ: I think Steve's comments are about
- 7 right.
- 8 THE COURT: Keep me apprised on that.
- 9 MR. ANGSTREICH: Will do.
- THE COURT: Let's go back to the Jones case.
- 11 Mr. Murphy, maybe you can bring us up-to-date on that, and
- then I will turn to Mr. Kohn?
- MR. MURPHY: On the Jones matter?
- 14 THE COURT: Yes.
- MR. MURPHY: Yes, Your Honor, we had written to
- 16 Mr. Oats twice. We had not gotten any response. We don't
- 17 know what he has done.
- 18 THE COURT: Okay. When did you last correspond
- 19 with him?
- MR. MURPHY: I've got her pulling letters right
- 21 now. That's what I was doing is pulling those out.

22	THE COURT:	You have heard	l nothing l	back from	him?

- MR. MURPHY: I have not heard a word back from
- 24 him.
- 25 THE COURT: And Ms. Jones is deceased, is that

- 1 correct?
- 2 MR. KOHN: That's correct, Your Honor. She died
- 3 sometime in 2004.
- 4 MR. MURPHY: We wrote February -- we wrote
- 5 February 14th, and then we did a second request on March
- 6 2nd, Your Honor.
- 7 THE COURT: Okay.
- 8 MR. MURPHY: And in the letters, I explained to
- 9 him what needed to be filed, and we have not gotten any
- 10 response.
- 11 THE COURT: Okay. When did you last speak with
- that attorney, Mr. Murphy?
- MR. MURPHY: We have not had any telephonic
- 14 communication with him whatsoever.
- 15 THE COURT: Okay. Mr. Kohn?
- MR. KOHN: Your Honor, this has been pending as
- 17 the Court knows for a number of months, and I mean, at some
- point I think if counsel is not going to be responsive on
- 19 the other side, I would respectfully request that the Court
- 20 grant our motion because we're really at an impasse here.
- We can't take any further discovery in the case,

- 22 and the case -- there is no plaintiff, so I just think the
- 23 case should be dismissed for failure to prosecute, if
- 24 nothing else.
- MR. MURPHY: Your Honor, if I could just ask that

- 1 this be carried over to the next hearing, and if I have to,
- 2 I'll fly back there to try to meet with him to try to get
- 3 him to do something.
- 4 THE COURT: Okay. Well, let's take this up next
- 5 month, and if there still is no response, I'm inclined to
- 6 grant the defendant's motion, so -- but I'll give you one
- 7 more month on it, Mr. Murphy.
- 8 MR. MURPHY: Thank you, Your Honor, just on
- 9 behalf of the plaintiff, not necessarily on behalf of her
- 10 attorney.
- 11 THE COURT: Right. Okay. Anything else on that
- 12 matter?
- 13 MR. CAPRETZ: That's basically it, Your Honor,
- 14 for today. It was a light menu, and if we could just get a
- 15 time set. We talked about an April status conference. We
- 16 probably should set something.
- 17 THE COURT: Yeah, somewhere in the middle part of
- 18 April. I'm around. I've got a couple of trials or a trial
- set right about that time, so I'm going to be here. Is
- 20 there any week where we have to work around depositions or
- 21 that counsel are here for something else?

	22	MR. k	KOHN:	Steve 1	Kohn,	Your	Honor.	The	Schul	tz
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- 23 deposition is the only one I believe that is pending in
- 24 Minnesota, and that one I believe is on the 27th of April.
- MR. ANGSTREICH: That is probably going to be

- 1 taken by Dan Sigelman, and I think it's going to be done by
- 2 video --
- 3 MR. KOHN: Okay.
- 4 MR. ANGSTREICH: -- from my office.
- 5 THE COURT: And that's a week where I'm scheduled
- 6 to be in Duluth anyway.
- 7 MR. ANGSTREICH: Okay.
- 8 THE COURT: So either of the previous two weeks,
- 9 is there any day that works for people?
- MR. CAPRETZ: Maybe the week of the 18th, Your
- 11 Honor?
- MR. ANGSTREICH: The only day I have that week is
- 13 Friday the 22nd.
- MR. CAPRETZ: I don't have a problem with that if
- 15 the Court is available.
- THE COURT: Yes. I have to check. I have
- something on the schedule that day. Let me just check it.
- MR. KOHN: Is it possible, Your Honor, to move it
- 19 into the first week of May. April 22nd is really only
- about three weeks from now.
- THE COURT: That would be fine.

- MR. ANGSTREICH: The 2nd, 3rd or 4th are all fine
- for me, Your Honor.
- MR. CAPRETZ: The 4th would work good for me,
- 25 Your Honor. I've got another matter on the 6th -- excuse

- 1 me -- the 5th in Minneapolis, so the 4th would be great if
- 2 it's open.
- 3 MR. KOHN: Steve Kohn, it would be fine for me,
- 4 Your Honor.
- 5 MR. JACOBSON: Joe Jacobson, it would be fine for
- 6 me.
- 7 THE COURT: Let's look at the 4th here. We've
- 8 got a trial going on, so we can work around almost
- 9 anything. Would you prefer a midday setting?
- MR. CAPRETZ: That's fine. If we do that, if we
- 11 could make it because the flight wouldn't normally get in
- until 12:30 if I take the morning flight. Does 1:30 work?
- THE COURT: 1:30 would be fine. I've got a
- 14 criminal trial so I can work around whatever time we have.
- MR. ANGSTREICH: 1:30 is great. That's an in and
- out. There is a 7:01 flight.
- 17 THE COURT: Is that okay with you, Mr. Kohn?
- 18 MR. KOHN: That's fine, Your Honor.
- THE COURT: We'll set it for 1:30 p.m. on
- Wednesday, May 4th.
- 21 MR. ANGSTREICH: Very good, Your Honor.

- MR. CAPRETZ: Thank you, Your Honor.
- 23 MR. KOHN: Thank you, Your Honor.
- 24 THE COURT: Anything else? Okay. Thank you,
- everyone. Take care.

1	MR. ANGSTREICH: Okay.
2	MR. KOHN: Bye.
3	MR. ANGSTREICH: Bye.
4	* * *
5	I, Kristine Mousseau, certify that the foregoing
6	is a correct transcript from the record of proceedings in
7	the above-entitled matter.
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11	Certified by:  Wrigting Managagy, CRR, RRR
12	Kristine Mousseau, CRR-RPR
13	Dated: April 19, 2005
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